Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Court of International Trade

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This issue contains

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 82-26)

Customhouse Broker's License—Cancellation

Cancellation of Customhouse Broker's License No. 4951

Notice is hereby given that the Commissioner of Customs, on January 22, 1982, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part 111 of the Customs Regulations, as amended (19 CFR Part 111), cancelled with prejudice the individual customhouse broker's license No. 4951 issued to Robert L. Andersen, Seattle, Washington, on May 30, 1974, for the Customs District of Seattle, Washington. The decision is effective as of January 22, 1982.

Dated: January 22, 1982.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

[Published in the Federal Register Feb. 8, 1982 (47 FR 5837)]

(T.D. 82-27)

Bonds

Bond rider to implement amendment in section 18.8, Customs Regulations

Under T.D. 82-13, which was published as a final rule on January 14, 1982 (47 F.R. 2086), the amount of liquidated damages for improper delivery of duty-free goods was increased to a minimum of $50 and a maximum of $100 for any one shipment. The increased amounts do not apply until April 14, 1982.

The Customs Service is printing revised editions of the Carrier's Bond (CF 3587), Private Carrier's Bond (CF 3588), and the Bond of Customs Cartman or Lighterman (CF 3855). The revised forms should be available before April 14, 1982.

Bond obligors on any of these existing bonds may execute and

file a new bond when the new forms become available or execute and file the following rider with the existing bond:

> Bond Rider for Carrier's Bond (CF 3587), Private Carrier's Bond (CF 3588), or Bond of Customs Cartman or Lighterman (CF 3855)

In substitution of condition 5 of the Carrier's Bond (CF 3587), condition 6 of the Private Carrier's Bond (CF 3588), or condition 2 of the Bond of Customs Cartman or Lighterman (CF 3855), as the case may be, in the bond dated ————, in the amount of ————, executed by ————————, as principal, and ————, as surety, the principal and surety agree to the following condition:

(a) And if the principal fails to deliver to the district director all duty-free merchandise or delivers that merchandise to any other person before release by the district director, the principal shall pay liquidated damages in an amount of at least $50, but not more than $100, based on the value of the undelivered or irregularly delivered merchandise in any one shipment;

(b) And if the principal fails to deliver to the district director all dutiable merchandise, the principal shall pay as liquidated damages an amount equal to the duties on that merchandise, or, if those duties cannot be promptly estimated, an amount equal to 70 percent of the value of that merchandise, as shown on the manifest;

(c) And if the principal delivers any dutiable merchandise to any other person before release by the district director, the principal shall pay as liquidated damages an amount equal to 125 percent of the duties, or, if those duties cannot be promptly estimated, an amount equal to 70 percent of the value of that merchandise, as shown on the manifest;

(d) And if the principal fails to comply with any other condition of this obligation, the principal shall pay as liquidated damages an amount equal to the value of the merchandise involved in any one shipment, but not to exceed $25;

(e) And in addition to any penalty set forth in subparagraph (a) through (d), the principal shall pay any duty, internal revenue tax, or other tax accruing to the United States on the merchandise, together with any other cost, charge, penalty, and expense caused by the principal's failure to comply with the conditions of this obligation;

(f) And it is understood and agreed that the district director's determination as to the dutiable status of the merchandise and the rate and amount of duty and tax is binding on all parties to this obligation;

Witness our hands and seals the ——— day of ———, 19 —.

———————————Principal (Seal)

———————————Surety (Seal)

Beginning on April 14, 1982, any new bond must be executed on the new revised bond forms.

BON–1–03

Dated: January 29, 1982.

GEORGE C. STEUART
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(19 CFR Part 4)

(T.D. 82–28)

Vessels in Foreign and Domestic Trades

Amendments to the Customs Regulations concerning the illegal discharge of oil and the pollution of coastal and navigable waters

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This notice amends the Customs Regulations relating to the illegal discharge of oil and the pollution of coastal and navigable waters by the deposit of refuse matter or hazardous substances. The amendments conform the Customs Regulations to changes made by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500), which were enacted to restore and maintain the chemical, physical, and biological integrity of the nation's waters.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 91, title 46, United States Code (46 U.S.C. 91), before any vessel may depart the United States for a foreign port, clearance must be obtained from Customs at the port of departure. To assist in the enforcement of the Federal Water Pollution Control

Act, as amended, the Water Quality Improvement Act of 1970 (33 U.S.C. 1161, 1162), provides that the Secretary of the Treasury, at the request of the Secretary of the Department in which the Coast Guard is operating (since 1967, the Department of Transportation), shall withhold clearance of any vessel the owner or operator of which is subject to a penalty for violation of the Act.

Section 4.66a, Customs Regulations (19 CFR 4.66a), provides that if a district director of Customs receives a request from an officer of the Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for *knowingly* discharging oil in violation of the Water Quality Improvement Act of 1970, clearance shall not be granted until the request is withdrawn or a bond or other surety satisfactory to the Coast Guard has been filed.

Section 4.66b, Customs Regulations (19 CFR 4.66b), provides procedures for Customs officers to follow in reporting to the Coast Guard discharges of refuse matter, hazardous substances, or oil in U.S. waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), and the Water Quality Improvement Act of 1970 (33 U.S.C. 1161, 1162).

The Federal Water Polution Control Act Amendments of 1972 (33 U.S.C. 1321 (1976)), extended the provision for witholding clearance to include discharges of hazardous substances as well as oil, *whether discharged knowingly or not*, and deleted the provision for granting clearance upon withdrawal of the Coast Guard's request to withhold clearance. In addition, the authority cited for sections 4.66a and 4.66b was changed to section 2, 86 Stat. 862, 864, 865, as amended; 33 U.S.C. 1321.

In order to conform its regulations to the amended law, Customs published a notice of proposed rulemaking in the Federal Register on April 29, 1981 (46 FR 23952), setting forth the necessary changes and the reasons therefor. Interested parties were given until June 29, 1981, to submit comments on the proposal. No comments were received in response to the notice. Accordingly, Customs has determined to adopt the changes as proposed.

EXECUTIVE ORDER 12291

Because this will not result in a "major rule" as defined in section 1(b) of Executive Order 12291, the regulatory impact analysis and review prescribed by section 3 of the Executive Order is not required.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

Because the contemplated effects of the Federal Water Pollution Control Act Amendments of 1972 are presumed to have been con

sidered by the Congress, and are considered to flow from that legal authority, not from the regulation, the regulation is not expected to; have a significant secondary or incidental effect on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from small entities.

Accordingly, pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, *et seq.*), the Secretary of the Treasury has determined that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

DRAFTING INFORMATION

The principal author of this document was Lawrence P. Dunham, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENT TO THE REGULATIONS

The proposed amendments to the regulations set forth in the notice of proposed rulemaking published in the Federal Register on April 29, 1981 (46 FR 23952) are adopted as set forth below.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

Approved: January 26, 1982.

JOHN M. WALKER, JR.,
Assistant Secretary of the Treasury.

[Published in the Federal Register February 4, 1982 (47 FR 5225)]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Sections 4.66a and 4.66b(a) and the authority cited after section 4.66b are amended by revising them to read as follows:

§ 4.66a ILLEGAL DISCHARGE OF OIL AND HAZARDOUS SUBSTANCES.

If a district director receives a request from an officer of the U.S. Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for discharging oil or a hazardous sub-

stance into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in quantities determined to be harmful by appropriate authorities, such clearance shall not be granted until the district director is informed that a bond or other surety satisfactory to the Coast Guard has been filed.

(Sec. 2, 86 Stat. 862, *et seq.*, as amended; R.S. 4197, as amended; 33 U.S.C. 1321, 46 U.S.C. 91)

§ 4.66b Pollution of Coastal and Navigable Waters.

(a) If any Customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters or any tributary of any navigable waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), or oil or a hazardous substance is being or has been discharged into or upon the navigable waters of the United States, adjoining shorelines or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1321), he shall promptly furnish to the district director a full report of the incident, together with the names of witnesses and, when practicable, a sample of the material discharged from the vessel in question.

* * * * * * *

(30 Stat. 1152; sec. 2, 86 Stat. 862, *et seq.*, as amended; 33 U.S.C. 407, 1321)

(T.D. 82-29)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: February 1, 1982.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Allis-Chalmers Power Systems, Inc., 1135 South 70th St., West Allis, WI; Old Republic Ins. Co. (PB 1/19/79) D 12/14/81	Jan. 8, 1982	Jan. 11, 1982	New Orleans, LA $10,000
American Industrial Carriers, Inc., 60 Threadneedle Lane, Stamford, CT; Investors Ins. Co. of America	Jan. 5, 1982	Jan. 6, 1982	New York Seaport $10,000
American Trading & Shipping, 1200 North West 78th Ave., Suite 103, Miami, FL; St. Paul Fire & Marine Ins. Co. D 12/23/81	Feb. 25, 1981	Feb. 25, 1981	New Orleans, LA $10,000
Boxline Shipping Co., Ltd., 17 Battery Place, New York, NY; Washington International Ins. Co. (PB 1/11/80) D 1/11/82 [1]	Jan. 11, 1982	Jan. 12, 1982	New York Seaport $10,000
Cadbury Schweppes U.S.A., Inc., and its w/o/s: Schweppes USA Ltd., Jefferson Bottling Co., Inc., & Peter Paul Cadbury Inc., 1200 High Ridge Rd., Stamford, CT; Washington International Ins. Co. (PB 1/23/80) D 1/23/82 [2]	Jan. 23, 1982	Jan. 24, 1982	New York Seaport $10,000
Caribe Shipping Co., Inc., P.O. Box 3267, San Juan, PR; Potomac Insurance Co. (PB 1/28/80) D 1/28/82 [3]	Jan. 28, 1982	Jan. 28, 1982	San Juan, PR $10,000
Champion Spark Plug Co., 900 Upton Ave., Toledo, OH; Old Republic Ins. Co. (PB 1/16/64) D 1/16/82 [4]	Jan. 16, 1982	Jan. 16, 1982	Detroit, MI $10,000
Dana Equipment Ltd., 2125 Biscayne Blvd., Miami, FL; St. Paul Fire & Marine Ins. Co.	Dec. 22, 1981	Dec. 29, 1981	Miami, FL $10,000
Exxon Corp., 13501 Katy Freeway, Houston, TX; Old Republic Ins. Co.	Jan. 26, 1982	Jan. 26, 1982	New Orleans, LA $10,000
W. R. Filbin & Co., Inc., 2436 Bagley St., Detroit, MI; Old Republic Ins. Co. (PB 12/13/63) D 12/13/81 [5]	Dec. 13, 1981	Dec. 13, 1981	Detroit, MI $10,000
General Motors Corp., 3044 West Grand Blvd., Detroit, MI; Old Republic Ins. Co. (PB 1/7/64) D 1/7/82 [6]	Jan. 7, 1982	Jan. 7, 1982	Detroit, MI $10,000
Genstar Container Corp., Four Embarcadero Center, San Francisco, CA; The American Insurance Co.	Oct. 26, 1981	Dec. 22, 1981	San Francisco, CA $10,000
Guilford Mills, Inc., 180 Madison Ave., New York, NY; Peerless Ins. Co.	Jan. 6, 1982	Jan. 13, 1982	Norfolk, VA $10,000
Fred Imbert, Inc., Fernandez Juncos Ave., Exide Bldg.—2nd floor, San Juan, PR; Insurance Co. of North America (PB 9/26/79) D 10/30/81 [7]	Oct. 1, 1981	Oct. 31, 1981	San Juan, PR $10,000
Jefferson Bottling Co., Inc.—see Cadbury Schweppes U.S.A., Inc.			

See footnotes at end of table.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Jones Chemicals, Inc., 100 Sunny Sol. Blvd., Caledonia, NY; Seaboard Surety Co. D 1/15/82	Dec. 13, 1977	Dec. 14, 1977	New York Seaport $10,000
Montedison USA, Inc., 1114 Avenue of the Americas, New York, NY; Washington International Ins. Co. (PB 12/7/78) D 12/31/81 [3]	Dec. 31, 1981	Jan. 1, 1982	New York Seaport $10,000
National Can Puerto Rico, Inc., Bo. Palmas Industrial Park (Box 185), Catano, PR; The Home Insurance Co.	Nov. 10, 1981	Nov. 15, 1981	San Juan, PR $10,000
Peter Paul Cadbury Inc.—see Cadbury Schweppes U.S.A., Inc.			
Refricentro, Inc., 380 Barbosa Ave., Hato Rey, PR; CNA Casualty of Puerto Rico (PB 1/29/81) D 1/29/82 [9]	Jan. 29, 1982	Jan. 29, 1982	San Juan, PR $20,000
Schweppes USA Ltd.—See Cadbury Schweppes U.S.A., Inc.			
Seapac Pacific Services, Inc., 433 Hegenberger Rd., Oakland, CA; American Motorists Ins. Co.	Dec. 21, 1981	Dec. 21, 1981	New York Seaport $10,000
Sun Chemical Export Corp., 222 So. Marginal Rd., Fort Lee, NJ; St. Paul Fire & Marine Ins. Co.	Dec. 23, 1981	Dec. 31, 1981	New Orleans, LA $10,000
Trafpak U.S.A., Inc., (A DE Corp.), 2000 W. Loop S., Suite 1800, Houston, TX; Washington International Ins. Co. (PB 1/23/80) D 1/23/82 [10]	Jan. 23, 1982	Jan. 23, 1982	New York Seaport $10,000
Transamerica Transportation Services Inc., 145 North Ave., East, Elizabeth, NJ; Transamerica Ins. Co. (PB 12/2/80) D 12/15/81 [11]	Dec. 15, 1981	Dec. 15, 1981	New York Seaport $10,000
Weyerhaeuser Co., Tacoma, WA; St. Paul Fire & Marine Ins. Co. (PB 6/15/77) D 6/14/80 [12]	Mar. 21, 1980	June 15, 1980	Seattle, WA $10,000

[1] Surety is Old Republic Ins. Co.
[2] Surety is Old Republic Ins. Co.
[3] Surety is Antilles Ins. Co.
[4] Surety is St. Paul Fire & Marine Ins. Co.
[5] Surety is St. Paul Fire & Marine Ins. Co.
[6] Surety is St. Paul Fire & Marine Ins. Co.
[7] Surety is The Home Ins. Co.
[8] Surety is Old Republic Ins. Co.
[9] Surety is Continental Casualty Co.
[10] Surety is Old Republic Ins. Co.
[11] Principal is Transamerica Realco Inc.
[12] Surety is Washington International Ins. Co

BON–8–10

MARILYN G. MORRISON,
Director,
Carriers, Drawback and Bonds Division.

19 CFR Part 101

(T.D. 82-30)

Change in the Field Organization of the Customs Service

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This notice amends the Customs Regulations to change the field organization of the Customs Service by establishing, on a 2-year experimental basis, a new Customs port of entry at Springfield, Missouri, in the St. Louis, Missouri, Customs district. The change is being made as part of Customs continuing program to obtain more efficient use of its resources and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: February 5, 1982.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Springfield, Missouri, is a community of 165,000 in the southern section of the state. Even though it is served by rail, air, and highway transportation, all imported merchandise destined for Springfield must be entered through distant ports of entry in St. Louis and Kansas City, Missouri, and Peoria, Illinois. The nearest of these, Kansas City, Missouri, is 170 miles away.

On May 7, 1980, the Springfield Chamber of Commerce submitted an application to Customs requesting the establishment of a Customs port of entry in that city. Although data submitted in support of the Chamber's request indicated that Customs-related activity in the area exceeded Customs minimum requirements for establishing ports of entry, it did not include sufficient documentation to permit a fair evaluation of community and business support for the proposal. Accordingly, Customs was reluctant to commit resources to the project until the need for, and potential use of, the port could be shown.

Additional data subsequently forwarded to Customs indicates that strong business support does exist for the establishment of the port of entry and that parties in Springfield are considering the possibility of establishing a foreign trade zone there. In addition, a major

national corporation has stated that it is considering radically increasing the production capacity of its Springfield plant.

On the basis of this information, Customs believes that there is potential use for a port of entry at Springfield and that a port of entry should be established there on a 2-year experimental basis. To verify that the projected workload does in fact materialize, Customs will evaluate the activity at Springfield at the end of the 2-year period before making a final determination about the establishment of a permanent port of entry at this location.

Accordingly, to keep pace with the expanding needs of Customs-related activities in the Springfield, Missouri, area, and to provide better service to carriers, importers, and the public, Customs published a notice in the Federal Register on October 29, 1981 (46 FR 53448), proposing to establish a new port of entry at Springfield, Missouri, in the St. Louis, Missouri, Customs district (Region IX).

Three comments were received in response to the notice. One commenter points out that the distance from Peoria is greater than stated in the notice. It is noted that Kansas City, Missouri, which is 170 miles away, is the nearest port of entry to Springfield rather than Peoria, Illinois.

The other two commenters oppose the change because they believe that a detrimental economic impact will occur if the change is implemented, and that a "feasibility study" of the efficiencies of small versus large ports should be conducted.

Further, one of the commenters argues that it is more efficient for Customs to devote its resources (especially commodity specialists) to large "satellite" ports like Kansas City than to establish a number of small ports (like Springfield) having no "direct" international truck or air service.

One aspect of Customs mission is to provide service to the public when and where it is required. The establishment of new ports of entry in various locations throughout the country is a necessary response to the public demand for increased Customs service. Further, Customs does have minimum workload and facility standards for the establishment of new ports of entry which are applied to prevent the unjustified proliferation of new ports. Prior to establishing ports of entry, Customs carefully reviews the data submitted in support of each application to verify that it meets the criteria. The application for Springfield, Missouri, was scrutinized and it appears that Springfield meets the criteria. Further, since the port would be established on a 2-year trial basis, Customs expects that the actual need for Customs service at Springfield will be determined within this 2-year period.

Customs constantly reviews the allocation of its resources to deter-

mine how and where it can best serve the importing public as well as meet the goal of fulfilling the mission of the Customs Service. As stated above, this change is being made as part of Customs continuing program to obtain more efficient use of its resources, and to provide better service to carriers, importers, and the public.

Accordingly, Customs has determined to adopt the change as proposed.

CHANGES IN THE CUSTOMS FIELD ORGANIZATION

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (46 FR 9336), a new Customs port of entry is established at Springfield, Missouri, in the St. Louis, Missouri, Customs district. The geographical limits of the Springfield, Missouri, Customs port of entry would encompass all of the territory within Greene and Christian Counties, Missouri.

AMENDMENT TO THE REGULATIONS

To reflect this change, the list of Customs regions, districts, and ports of entry in section 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by adding "Springfield, Missouri, including all of the territory within Greene and Christian Counties, Missouri, (T.D. 82–30)" directly below "Kansas City Mo., including Kansas City, Kans. and North Kansas City, Mo., (E.O. 8528, Aug. 27, 1940) including the territory described in T.D. 67–56." in the column headed "Ports of entry" in the St. Louis, Missouri, district (Region IX).

EXECUTIVE ORDER 12291

Because this will not result in a "major rule" as defined in section 1(b) of Executive Order 12291, the regulatory impact analysis and review prescribed by section 3 of the Executive Order is not required.

REGULATORY FLEXIBILITY ACT

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has determined that the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the St. Louis, Missouri, district area, it is not expected to be significant because the establishment of Customs ports of entry in other locations has not had a significant economic impact upon substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

DRAFTING INFORMATION

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: January 27, 1982.

JOHN P. SIMPSON,
Acting Assistant Secretary of the Treasury.

[Published in the Federal Register February 5, 1982 (47 FR 5406)]

U.S. Customs Service

General Notices

(TMK–2–CO:R:E:E)

Notice of Application for Recordation of Trade Name

"CLAIROL INCORPORATED"

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Clairol Incorporated," used by Clairol Incorporated, a corporation organized under the laws of the State of Delaware, located at 345 Park Avenue, New York, New York 10154.

The application states that the trade name is used in connection with the following merchandise which is manufactured in numerous foreign countries: hair coloring, hair care products, electrical appliances, cosmetics and toiletries. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person, in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received no later than 60 days from the date of publication of this notice in the Federal Register.

Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

Dated: January 28, 1982.

DONALD W. LEWIS,
Director, Entry, Procedures, and Penalties Division.

[Published in the Federal Register February 3, 1982 (47 FR 5063)]

(TMK-2-CO:R:E:E)

Notice of Application for Recordation of Trade Name "Bristol-Myers Company"

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Bristol-Myers Company," used by Bristol-Myers Company, a corporation organized under the laws of the State of Delaware, located at 345 Park Avenue, New York , New York 10154.

The application states that the trade name is used in connection with the following merchandise manufactured in numerous foreign countries: pharmaceuticals and medicines for human and veterinary use; vitamins, deodorants and oral hygiene preparations for human use; cosmetics and toiletries medical appliances; small electrical appliances; and nutritional foods. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received no later than 60 days from the date of publication of this notice in the Federal Register.

Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

Dated: January 28, 1982.

Donald W. Lewis,
Director, Entry, Procedures, and Penalties Division.

[Published in the Federal Register February 3, 1982 (47 FR 5063)]

United States Court of International Trade

Decisions of the United States Court of International Trade

(Slip Op. 82–8)

SOUTH CORPORATION ET AL., PLAINTIFFS *v.* UNITED STATES, DEFENDANT

Joint Court No. 76–8–01816

Before RE, *Chief Judge.*

Ship repairs

The costs of ship repairs made in foreign ports to vessels with a certificate of registry were assessed by customs officials at the rate of

365-074 O - 82 - 3

50 per centum ad valorem under 19 U.S.C. § 1466(a). That provision imposes a repair duty upon all vessels documented under the laws of the United States to engage in foreign or coasting trade, unless exempt by 19 U.S.C. § 1466(e).

FOREIGN REPAIRS TO UNITED STATES VESSELS

The costs of repairs made in a foreign country to documented vessels engaged exclusively in oceanographic research and intended solely for that purpose are subject to duty under 19 U.S.C. § 1466(a), unless the conditions set forth in section 1466(e) are met.

In determining whether an oceanographic research vessel is included within the meaning of 19 U.S.C. § 1466(a) and the exemption of 19 U.S.C. § 1466(e), the court should give effect to all provisions of a statute and not adopt a meaning which would render a section or subsection redundant. *Elizabeth River Terminals, Inc.* v. *United States*, 1 CIT —, Slip Op. 811–7 (Feb. 26, 1981).

The purpose of 46 U.S.C. § § 441–445, Oceanographic Research Vessels Act, is to exempt research vessels from the strict inspection and personnel protection laws mandated for commercial crews which hindered the mission of technical or scientific personnel, and not to exempt vessels from foreign repair duties assessed under 19 U.S.C. § 1466(a).

[Judgment for defendant.]

(Decided January 21, 1982)

Hinds & Meyer (*John K. Meyer* at the trial and on the briefs) for the plaintiffs.

J. Paul McGrath, Assistant Attorney General; *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Madeline B. Kuflik* at the trial and on the brief), for the defendant.

RE, *Chief Judge:* Plaintiffs sue to recover duties paid for foreign repairs on two of their vessels, M/V *North Seal* and M/V *Atlantic Seal*. The parties have stipulated that plaintiff, South Corporation, was the owner of the vessel M/V *North Seal* which departed Woods Hole, Massachusetts on July 18, 1972 and was on a foreign voyage until it returned to the port of Galveston, Texas on December 23, 1972. Repairs were made at Montego Bay, Jamaica, on December 2, 1972 and the repair entry was filed on April 5, 1973.

Plaintiff, Seal Fleet, Inc., was the owner of the M/V *Atlantic Seal* which departed New Bedford, Massachusetts in December 1970, and was on an overseas voyage until it returned to the United States port of Freeport, Texas, on May 29, 1973. Repairs were made on December 29, 1970, January 2 and 22, and February 9, 1971 in Ancona, Italy. The repair entry was filed on July 17, 1973.

The parties stipulated that at all material times on the voyages in

question each of the vessels was engaged exclusively in oceanographic research; was designed and used primarily for purposes other than transporting passengers or property in the foreign or coasting trade; and was documented under the laws of the United States with a certificate of registry.

After the foreign repairs were made and the vessels entered into the United States, pursuant to section 466(a) of the Tariff Act of 1930, as amended (19 U.S.C. § 1466(a)), duties of 50 per centum ad valorem were assessed on the cost of the repairs. This section provides for the imposition of duties on the cost of repairs made in a foreign country on vessels documented under the laws of the United States to engage, or vessels intended to be employed, in the foreign or coasting trade. Subsection (e) of section 466 of the Tariff Act of 1930, as amended (19 U.S.C. § 1466(e)), added as subsection (c) on January 5, 1971, and redesignated subsection (e) on October 3, 1978, provides for an exemption from repair duties for "any vessel designed and used primarily for purposes other than transporting passengers or property in the foreign or coasting trade" if certain specifically enumerated criteria are met.

The pertinent provisions of 19 U.S.C. § 1466 (a) and (e) read as follows:

> § 1466. Equipment and repairs of vessels.
>
> (a) Vessels subject to duty; penalties.
>
> The equipments, or any part thereof, including boats, purchased for, or the repair parts of materials to be used, or the expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country * * *.
>
> * * * * * * *
>
> (e) Vessels used primarily for purposes other than transporting passengers or property in the foreign or coasting trade.
>
> In the case of any vessel designed and used primarily for purposes other than transporting passengers or property in the foreign or coasting trade which arrives in a port of the United States two years or more after its last departure from a port of the United States, the duties imposed by this section shall apply only with respect to (1) fish nets and netting, and (2) other equipments, and parts thereof, and repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

In addition to the stipulation of the parties, the defendant presented the testimony of Mr. Joseph A. Yglesias, Chief of the Merchant Vessel Documentation Division, United States Coast Guard, Mr. Yglesias explained the purpose for the documentation of vessels. He also testified that the certificates of registry issued for the vessels in question permitted them to engage in foreign trade, and that a certificate of registry establishes the nationality of the vessel upon which it relies in a foreign port.

The plaintiffs claim that the repair duty provisions of section 466(a) do not apply to the vessels in question since they were neither engaged in, nor intended to be engaged in, foreign trade. They maintain that these foreign repairs were not subject to the assessment of duties under section 466(a) regardless of the other provisions of section 466. In essence, plaintiffs submit that since the repairs were made to vessels that do not come within the scope of subsection (a), the provisions set forth in subsection (e) do not apply. Plaintiffs cite this court's opinion in *Corpus Co.* v. *United States*, 69 Cust. Ct. 170, C.D. 4390, 350 F. Supp. 1397 (1972), *appeal dismissed*, 60 CCPA 185 (1973), and urge that the repairs in question are not subject to the assessment of duties.

Over and beyond the statutory presumption of correctness found in 28 U.S.C. § 2635 (1976), defendant contends that the duties for foreign repairs performed on a vessel documented under the laws of the United States were properly assessed. The defendant maintains that the congressional intent underpinning section 466 is to protect American shipyards and American labor from the competition of foreign shipyards, a longstanding policy with national defense implications, since American shipyards are used in time of war or emergency to supplement American naval yards.

Defendant further contends that the plain language of the statute leaves no doubt that oceanographic research vessels are included within the scope of subsection (e). In enacting that section as subsection (c), defendant maintains that Congress intended that oceanographic vessels come within the meaning of section 466 since they are expressly mentioned in the legislative history of subsection (c) as examples of "special service" vessels. See S. Rep. No. 91–1474, 91st Cong., 2d Sess., *reprinted in* [1970] *U.S. Code Cong. & Ad. News* 5910–11. Hence, defendant contends that foreign repairs on documented vessels are dutiable unless they meet the strict criteria of the limited exemptions.

The plaintiffs' reliance on the *Corpus* case requires careful consideration. In *Corpus*, a number of vessels had engaged in lengthy voyages outside the United States. At all times during their voyages they were engaged solely in oceanographic research. The vessels were not equipped to engage in foreign trade and were intended

to engage solely in oceanographic research. During their respective voyages each vessel had undergone repairs in a foreign port and, upon reentry into the United States, was assessed with duties upon the foreign repairs pursuant to section 466 of the Tariff Act of 1930, in effect prior to January 1, 1971. Thus, the question presented in *Corpus* was whether foreign repairs on vessels documented to engage in foreign trade, but which in fact were engaged exclusively in oceanographic research, were properly subject to assessment pursuant to section 466 of the Tariff Act of 1930, as enacted prior to January 1, 1971. In *Corpus*, this court decided that "where a vessel does not engage in trade, is not intended to engage in trade, and indeed is physically incapable of engaging in trade, its repairs are not dutiable under section 466." 69 Cust. Ct. at 176.

This court, in the more recent decision of *Elizabeth River Terminals, Inc.* v. *United States*, 1 CIT —, Slip Op. 81–17 (Feb. 26, 1981), examined the *Corpus* case and, in view of the 1971 amendment to the Tariff Act of 1930, rejected arguments similar to those being made here, stating:

> In *Corpus*, the foreign repairs were made "during the period of 1966–1969," and the court expressly stated that duties had been imposed under section 466 of the Tariff Act of 1930 "in effect prior to January 5, 1971." *Id.* at 171. Clearly, therefore, as indicated by the defendant, the decision in *Corpus* was an interpretation and application of the language of section 466 *before* the 1971 amendment. In *Corpus*, the court examined prior decisions, and concluded that the pertinent cases closely scrutinized the actual and intended use of the vessel in determining whether the cost of foreign repairs was dutiable under the statute prior to the 1971 amendment. Consequently, it cannot be asserted that *Corpus* is dispositive of the present case which involves foreign repairs made on the *Cambria* in 1973 after the enactment of subsection (e) to section 466 in 1971. (Emphasis in original.) Slip Op. 81–17 at 10.

The following statements by the court in the *Elizabeth River* case are equally applicable here:

> To accept plaintiff's interpretation of section 1466 would mean that, in 1971, by enacting subsection (e), Congress enacted a subsection which, for special service vessels, either repeated or contradicted subsection (a) since, according to plaintiff's reading of the statute, special service vessels like the *Cambria* were not and are not subject to the duties provided for in subsection (a). Such a meaning would do violence to the basic principle of statutory interpretation and application that a court should give effect to all provisions of a statute. It cannot adopt a meaning which would render a section or subdivision of a statute a mere redundancy. *See Jarecki* v. *G. D. Searle & Co.*, 367 U.S. 303, 307–308, 81 S. Ct. 1579, 1582 (1961). Moreover, as stated by the United States

> Court of Customs and Patent Appeals, in construing different parts of a tariff act which appear to be in conflict it is the court's function to harmonize them so as to give each of them meaning, and achieve a re ult which was reasonably within the legislature's contemplation. [Citations omitted.] By interpreting 19 U.S.C. § 1466 (a) and (e) so that special service vessels are subject to the duties provided for in subsection (a) unless they meet the specific conditions set forth in subsection (e), the court is implementing the stated Congressional intent, and also avoids any conflict between the two subsections of the statute. *Id.* at 14–15.

Thus, this court has previously considered and rejected the argument submitted by plaintiffs that documented vessels which do not engage in trade are never dutiable under section 466(a) of the Act. Although the addition of subsection (e) provides for a limited exemption from duties imposed in subsection (a), plaintiffs admit that these vessels do not meet the conditions set forth in subsection (e). Hence, they do not qualify for the exemption from foreign duty as provided in subsection (e).

It should be emphasized that the court in *Corpus* interpreted and applied a ship repair statute, which did not contain a subsection (e), against a background of cases of this court decided some thirty-five years prior[1] to the addition of subsection (e). Furthermore, it is now clear that the court's *dicta* in *Corpus*, pertaining to the meaning and import of the legislative history of subsection (e) as it related to section 466(a), were incorrect. As stated in the *Elizabeth River* case:

> In providing for the exemption, Congress manifested its understanding and intent that the special service vessels *were* subject to the duties imposed by section 1466(a); otherwise, there would have been no reason to amend section 466 of the Tariff Act of 1930 by including the exemption found in the present subsection (e).
>
> The legislative history makes it clear that section 1466(e) was intended to relieve certain vessels from the duties imposed by section 1466(a), and that the newly granted relief was conditioned upon the prescribed prerequisites; i.e., that the repairs were made after the first six months of a vessel's voyage in foreign or international waters, and that the vessel's voyage in those waters last at least two years without the vessel returning to a United States port. (Emphasis in original.) Slip Op. 81–17 at 13.

It is clear from the statutory language of subsection (e) that Congress intended to exempt from duties the foreign repairs made on certain vessels which meet the conditions set forth in the statute. To adopt plaintiffs' interpretation of section 466 would be to disregard the plain language of the statute and a basic principle of statutory interpretation. In determining the meaning of terms enacted into law

[1] See, e.g., *Standard Dredging Co. v. United States*, 69 Treas. Dec. 239, T.D. 48136 (Cust. Ct. 1936).

the court may, of course, resort to reports of hearings before the congressional committees which considered the legislation. *United States* v. *Kung Chen Fur Corp.*, 38 CCPA 107, C.A.D. 447 (1951), *Jos. Riedel Glass Works, Inc.* v. *United States*, 12 Cust. Ct. 173, C.D. 849 (1944), *aff'd*, 32 CCPA 201, C.A.D. 307 (1945). Reference has been made in the briefs to letters of the Treasury Department relied upon by Congress in adding subsection (e). However, statements and materials in briefs, as well as testimony presented at committee hearings, cannot in themselves be considered a guide to what Congress intended. Moreover, factual assertions in briefs, not founded upon evidence of record, have no evidentiary value. See authorities cited in *Tropi-Cal* v. *United States*, 63 Cust. Ct. 518, 521, C.D. 3945 (1969). See also *United States* v. *Fairfield Gloves*, 64 CCPA 126, C.A.D. 1194, 558 F.2d 1023 (1977); *Consolidated Cork Corp.* v. *United States*, 58 CCPA 125, C.A.D. 1016, 438 F. 2d 1241 (1971); *Gulf Gypsum Co.* v. *United States*, 20 CCPA 101, 107–08, T.D. 45725 (1932).

Plaintiffs refer to the Oceanographic Research Vessels Act (July 30, 1965), 79 Stat. 424, 46 U.S.C. §§ 441–445, and claim that it expressly grants exemption to oceanographic research vessels from the ambit of section 466(a). This contention requires a close examination of the the purpose and effect of the Oceanographic Research Vessels Act and, in particular, section 443, which provides:

> § 443. Vessel not engaged in trade or commerce.
>
> An oceanographic research vessel shall not be deemed to be engaged in trade or commerce.

Plaintiffs state that section 443 provides for an exemption from the duties on foreign repairs which are imposed by section 466(a) of the Tariff Act of 1930. It is urged that, since oceanographic research vessels are not to be deemed "engaged in trade or commerce," Congress intended to exclude them from the requirement of the foreign repair duty.

Defendant maintains that section 443 was enacted to exempt oceanographic research vessels from the application of certain vessel inspection laws relating to safety matters. The defendant stresses that oceanographic vessels are not exempt from liability under section 466 of the Tariff Act of 1930 since the legislative history of the 1971 amendment specifically mentions oceanographic vessels as an example of vessels which were to be included within the scope of the amendment.

In determining whether section 443 of the Oceanographic Research Vessels Act provides for an exemption for oceanographic vessels from the duties imposed by section 466(a) of the Tariff Act of 1930, the court must look to the language of both statutes *in pari materia*. It is

to be noted that the Oceanographic Research Vessels Act is in Title 46 of the U.S. Code under the category of "Shipping," whereas the foreign vessel repair statute is part of the Tariff Act of 1930, in Title 19 of the U.S. Code which provides for "Customs Duties." The defendant indicates that although section 443 of the Oceanographic Research Vessels Act states that oceanographic research vessels shall not be deemed to engage in trade or commerce, that section does not say that the vessel shall not be documented to engage in foreign or coasting trade.

The objective of the legislative effort underlying the 1965 Oceanographic Research Vessels Act was to exempt research vessels from strict inspection and personnel protection laws mandated for commercial crews which hindered the mission of technical or scientific personnel. The stated purpose of this statute is reflected in H. Rep. No. 599:

> The purpose of this bill is to recognize, as a matter of law, that oceanographic research vessels, and the people working aboard them, while being engaged in specialized scientific work in the marine sciences, must necessarily be treated under *our regulatory and safety laws as being of different categories than other vessels and their personnel engaged in the usual pursuits of commercial passenger and cargo carrying.*
>
> BACKGROUND
>
> Over the years *vessel inspection, manning, and other safety requirements* have been designed in behalf of the interests *of vessels and personnel engaged in normal commercial operations.* Within the last few years, however, *the United States has embarked upon broad-scale programs of research* and exploitative studies of all aspects of the marine environment under Government, institutional, and industry auspices. These are all in the national interest. They require specialized and, in many cases, *unique* vessels which to accomplish their missions must frequently depart from normal configuration. They *must carry scientists and trained technicians to carry out the objectives of the scientific cruises* into waters all over the world under all conditions. They must be capable of, and *their personnel must be qualified by training, to meet with hazards beyond those to which commercial vessels and their complements might normally be exposed.*
>
> *Under existing laws, scientific personnel, including students, carried on board a ship used in oceanographic research must be classified either as passengers or as members of the crew.* The administering agency in these matters is the U.S. Coast Guard. Being itself deeply involved in the national oceanographic program, the *Coast Guard has recognized the problem and has met many of the practical questions which have arisen in recent years through justifiable, but nevertheless expedient, interpretations and waivers.* As the program has developed and accelerated *these expedients are no longer either satisfactory or realistic.*

> *This bill would, therefore, by making certain exemptions from existing laws, create a new category of "oceanographic research vessels"* which would be defined as a vessel being employed exclusively in instruction in oceanography or limnology (the study of marine sciences in fresh water areas), or both, exclusively in oceanographic research in all its aspects. (Emphasis added.) H. Rep. No. 599, 89th Cong., 1st Sess., *reprinted in* [1965] *U.S. Code Cong. & Ad. News* 2383, 2384.

In 1971, by Pub. L. No. 91–654, Congress amended section 466 of the Tariff Act which provided for an exemption from repair duties for certain vessels which met the prescribed prerequisites. Although the amendment itself does not specifically provide for "oceanographic vessels," the legislative history of the section leaves no doubt it was intended to apply to them. Indeed, the following excerpt from the "EXPLANATION OF COMMITTEE AMENDMENT" specifically mentions oceanographic vessels:

> Besides shrimp boats, the amendment would apply only to "special service vessels", such as barges, oil drilling vessels, *oceanographic vessels*, which, like shrimp boats, in the course of their operations, cannot return to U.S. ports to secure the necessary repairs, without great inconvenience. (Emphasis added.) S. Rep. No. 95–1474, 91st Cong., 2d Sess., *reprinted in* [1970] *U.S. Code Cong. & Ad. News* 5910, 5951.

Since the amendment was enacted by Congress six years after the enactment of the Oceanographic Research Vessels Act, it is a fair inference that Congress did not intend to exempt oceanographic vessels from the foreign repair duty provision of section 466(a).

The interpretation sought by the plaintiff would upset a statutory plan prescribed by the tariff statutes. Hence, the court does not agree that Congress intended to exclude oceanographic research vessels from the specific requirements for exemption set forth in the 1971 amendment.

After a study of the pertinent sections and their legislative history, it is the conclusion of the court that Congress intended to include all documented vessels under section 466(a) of the Tariff Act of 1930, as amended, and to grant exemption to those which meet the conditions set forth in section 466(e) of that Act.

In view of the foregoing, it is the determination of this court that oceanographic vessels are special service vessels which are designed and used primarily for purposes other than transporting passengers and property in the foreign or coasting trade and are included within the scope of section 466(a) of the Tariff Act of 1930, as amended. Since the M/V *North Seal* and M/V *Atlantic Seal* are oceanographic vessels and were documented under the laws of the United States to engage in trade at the time the repairs were made, plaintiff's action for the

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recovery of foreign repair duties must fail as the vessels do not qualify for the exemption provided for in section 466(e) of the Act.

Judgment will issue accordingly.

(Slip Op. 82–9)

ITT THOMPSON INDUSTRIES, INC., PLAINTIFF, *v.* UNITED STATES, DEFENDANT

Court No. 78–5–00872

Before LANDIS, *Judge.*

Electrical sockets and wire harnesses—Electric lighting equipment for motor vehicles—Electric lamp sockets and wiring sets

LEGISLATIVE INTENT

It is axiomatic that a statute must be construed to carry out legislative intent. To determine the intent, one must first look to the statutory language itself. *United States* v. *Siemens America, Inc. et al.*, 68 CCPA__, C.A.D. 1266, 653 F. 2d 471 (1981), cert. denied, __ U.S.__, (No. 81–994, Jan. 11, 1982); *Intercontinental Fibers, Inc.* v. *United States*, 64 CCPA 31, C.A.D. 1179, 545 F. 2d 744 (1976).

TARIFF SCHEDULES

TSUS item 685.90 is a bifurcated classification statute. Specifically it lists certain *eo nomine* items (switches, lamp sockets, etc.) and follows with a basket provision for electrical apparatus. Since the lamp sockets are specifically mentioned by name, an *eo nomine* designation, in item 685.90, they obviously are part of the *eo nomine* designation under item 685.90 and not part of the "basket" provision under item 685.90.

Held: Customs correctly classified the merchandise under their *eo nomine* designation as lamp sockets pursuant to TSUS item 685.90 and correctly classified the wiring harnesses under their *eo nomine* designation as wiring sets designed for use in motor vehicles pursuant to TSUS item 688.12. Neither the sockets nor the harnesses constitute electric lighting equipment under TSUS item 683.65 as neither, standing alone, have the capability of *actual illumination* or shedding light in any form. *Robert Bosch Corp., Arthur J. Fritz & Co.* v. *United States*, 63 Cust. Ct. 96, C.D. 3881 (1969); *British Auto Parts, Inc., Ted L. Rausch* v. *United States*, 63 Cust. Ct. 105, C.D. 3822 (1969).

Similarly, neither the sockets nor the harnesses constitute sound or visual signalling apparatus under TSUS item 685.70 as neither, standing alone, have the capability of producing an actual visual or

sound signal. Both the lamp sockets and the wiring harnesses are, at best, *parts* of the electrical lighting equipment of a motor vehicle and *parts* of sound or visual signalling apparatus. As such, General Interpretative Rule 10(ij) dictates that the sockets and the wiring sets be classified under the TSUS items that specifically provide for such part, i.e. their *eo nomine* designations.

[Judgment for defendant.]

(Decided January 22, 1982)

Barnes, Richardson & Colburn (*Andrew P. Vance* at the trial; *Andrew P. Vance* and *Jack D. Mlawski* on the briefs) for the plaintiff.

J. Paul McGrath, Assistant Attorney General; *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Branch (*Susan C. Cassell* at the trial; *John J. Mahon* on the brief), for the defendant.

LANDIS, *Judge:* This action, tried before me, involves the classification of electrical sockets and wire harnesses specifically designed for use in automobiles. The merchandise was imported from Mexico and entered at the port of Brownsville, Texas, in 1976.

Customs officials classified the electrical sockets (known as Posi-Lock electrical sockets) as electrical lamp sockets pursuant to TSUS item 685.90 as modified by Presidential Proclamation 3822, T.D. 68–9, with duty assessed thereunder at 8.5 per centum ad valorem. The wire harnesses were classified as "wiring sets designed for use in motor vehicles," under TSUS item 688.12, as modified, *supra*, with duty assessed at 5 per centum ad valorem.

Plaintiff claims that the importation should have been classified under TSUS item 683.65, as modified, *supra*, as "electric lighting equipment designed for motor vehicles," with duty assessed at 4 per centum ad valorem, or alternatively, under TSUS item 685.70, as modified, *supra*, as visual signalling apparatus, with duty at the rate of 4 per centum ad valorem.

The pertinent Tariff Schedule provisions which appear in Schedule 6, Part 5 are:

Defendant's classification:

[Sockets]		
685.90	Electrical switches, relays, fuses, lightning arresters, plugs, receptacles, lamp sockets, terminals, terminal strips, junction boxes and other electrical apparatus for making or breaking circuits, for the protection of electrical circuits, or for making connections to or in electrical circuits; switchboards (except telephone switchboards) and control panels; all the foregoing and parts thereof----------	8.5% ad val.

[Harnesses]		
	Insulated (including enamelled or anodized) electrical conductors, whether or not fitted with connectors (including ignition wiring sets, Christmas-tree lighting sets with or without their bulbs, and other wiring sets):	
* * * * * * *		
	With fittings:	
* * * * * * *		
688.12	Ignition wiring sets and wiring sets designed for use in motor vehicles and craft provided for in part 6 of schedule 6	5% ad val.

Plaintiff's claim:

[Sockets and harnesses]		
683.65	Electric lighting equipment designed for motor vehicles, and parts thereof	4% ad val.

Plaintiff's alternative claim:

685.70	Bells, sirens, indicator panels, burglar and fire alarms, and other sound or visual signalling apparatus, all the foregoing which are electrical, and parts thereof	4% ad val.

The issues addressed to the classification of the Posi-Lock socket are whether these sockets are properly classified as electrical lamp sockets under TSUS item 685.90, or whether the classification of the sockets is more specifically provided for under TSUS item 683.65 as electrical lighting equipment designed for motor vehicles and parts thereof, or under TSUS item 685.70 as sound or visual signalling apparatus or parts thereof.

The issues addressed to the classification of the wire harnesses are whether the harnesses are properly classified as wiring sets designed for motor vehicles under TSUS item 688.12, or whether the classification is more specifically provided for under TSUS items 683.65 and 685.70 as stated above.

At the trial, five witnesses testified and thirteen exhibits were introduced on plaintiff's case. Three witnesses testified and one exhibit was introduced on defendant's case.

The Sockets

Plaintiff does not contend that the sockets in issue are not electrical lamp sockets. The testimony of both plaintiff's and defendant's

witnesses indicates that the basic functions of lamp sockets are to hold and retain bulbs and provide the means for supplying electrical current to the retained bulb. Witnesses for both parties are basically in agreement that the sockets in issue are electrical lamp sockets. This indicates that these sockets are correctly classifiable under TSUS item 685.90 which provides an *eo nomine* designation for lamp sockets. In order to prevail plaintiff has attempted to demonstrate that these sockets are properly classifiable under another TSUS item which more specifically provides for this socket than TSUS item 685.90.

Initially, plaintiff argues that the sockets in issue are electric lighting equipment designed for motor vehicles and thereby are specifically classifiable under TSUS item 683.65.

Both sides have argued as to the legislative intent, and it is settled that where aid to the construction of words is available, resort may be had to House and Senate Reports in determining the legislative history. *United States* v. *American Trucking Association, Inc. et al.*, 310 U.S. 534 (1940); *J. E. Bernard Co.* v. *United States*, 81 Cust. Ct. 60, C.D. 4766 (1978).

In reviewing the applicable case law, Congressional intent and the witnesses' testimony, it is readily apparent that the term electrical equipment as used in the TSUS item is intended to encompass that combination of electrical equipment responsible for producing an end result of *actual illumination*, and any *part* of electrical lighting equipment which provides a necessary function in attaining the end result of illumination. It cannot be denied that the sockets are both electrical equipment and electrical apparatus. They are not, however, *lighting* equipment or *lighting* apparatus since they cannot, standing alone, produce light or otherwise illuminate. They are, at best, a *part* (indeed an integral part) of electrical lighting equipment designed for motor vehicles.

TSUS item 683.65 relating to electric lighting equipment for motor vehicles became effective on December 7, 1965 as a result of passage of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 933). The House Report accompanying this bill, H.R. Rep. No. 342, 89th Cong., 1st Sess. 25 (1965), indicates that this particular TSUS item relates to equipment which when funtioning provides an end result of actual illumination. The House Report states:

> (h) *Lighting equipment designed for motor vehicles.*—Subsection (h) of section 30 sets up a new item for lighting equipment designed for motor vehicles and parts thereof, at 8½ percent ad valorem. This new item 683.65 applies principally to equipment presently covered by item 653.40 for which the rate is 19 percent ad valorem. Under the former tariff schedules the

> articles covered by proposed new item 683.65 were classified as automotive parts at 8½ percent ad valorem.
>
> The new item will apply, for example, to headlamp assemblies consisting of sealed beam units and their frames and mountings. It should be noted, however, that this amendment does not affect the status of sealed beam lamps imported separately; such lamps are specifically provided for in item 686.60.
>
> The new provision is not limited to headlight assemblies; it also covers other motor vehicle lighting equipment such as taillight assemblies and parking light assemblies.

In order to fully appreciate the ramifications of this section of the House Report it is necessary to examine the TSUS item to which it refers, namely, 653.40. Item 653.40 states:

> Illuminating articles and parts thereof, of base metal:
>
> * * * * * * *
>
> Other---------- 19% ad val.

The Tariff Classification Study, Schedule 6, Part 3, page 203 (1960), Explanatory Notes for items 653.30–653.40 states in pertient part:

> Items 653.30 through 653.40 covering *illuminating* articles and parts thereof, of base metal, are derived * * *. Item 653.40 covers "other" *illuminating* articles dutiable at various rates * * * [Emphasis supplied.]

Thus, the House Report accompanying the Technical Amendments Act of 1965 was intended to apply principally to articles covered under item 653.40. The articles classifiable under 653.40 are limited to illuminating articles. Therefore, the equipment classifiable under 683.65 must be equipment that has an end functional result of *actual* illumination, or parts thereof. This intention is also discernible from the examples enumerated in the House Report accompanying the Technical Amendments Acts of 1965, namely, "headlamp assemblies consisting of sealed beam units and their frames and mountings". and further on, "* * * it also covers other motor vehicle lighting equipment such as taillight assemblies and parking light assemblies". The fact common to these examples is that all are comprised of equipment capable of an end result of shedding *actual* illumination as assemblies.

Case law lends strong support to the foregoing legislative intent. In *Robert Bosch Corp., Arthur J. Fritz & Co.* v. *United States*, 63 Cust. Ct. 96, C.D. 3881 (1969),[1] the court held that flasher units which

[1] Plaintiff maintains that the court in *Bosch* incorrectly relied upon the Summaries of Trade and Tariff Information (1969), Schedule 6, Volume 10 at 209 and 210, and the Explanatory Notes to the Brussels Nomenclature 1955, Volume III, pages 937 and 938, citing *Astra Trading Corp.* v. *United States*, 65 Cust. Ct. 6, C.D. 4044 (1970).

In reading *Bosch* this Court notes that the *Bosch* court did, in fact, cite these two sources in support of its holding. However, the *Bosch* court also cited the Tariff Classification Study in support thereof and then,

(Continued)

cause directional lights to blink were not classifiable as electrical lighting equipment. While the subject equipment was switches and not sockets, the reasoning of the court is instructive as to what is required of merchandise before it can be classified as electrical lighting equipment. The court succinctly stated:

> In any event switches are not lighting equipment *per se* for they are not complete devices for furnishing illumination. They are, at best, parts which, when combined with housings, bezels, lenses, sockets and bulbs, and the like, constitute the lighting equipment of motor vehicles.* * * [*Id.* at 102.]

The same reasoning was applied in a case decided contemporaneously with *Robert Bosch, Id.*, see, *British Auto Parts, Inc., Ted L. Rausch* v. *United States*, 63 Cust. Ct. 105, C.D. 3882 (1969).[2]

In reviewing the testimony relating to the particular issue of whether the sockets are lighting equipment, the court finds that the preponderance of the testimony supports the conclusion that the sockets are parts of the lighting equipment of an automobile but do not constitute the overall lighting equipment thereof. Each of plaintiff's witnesses at one point in their testimony uncategorically stated that the sockets are lighting equipment designed for a motor vehicle. However, a careful analysis of each witness' entire testimony indicates that the witnesses actually understood the sockets to be a *part* of the overall lighting equipment of a motor vehicle.

On direct examination plaintiff's witness Melvin B. Polkinghorn when asked the following question, gave the following answer (R. 96):

> Q. What do you consider to be the lighting equipment of a motor vehicle? A. The lighting equipment would be—well, any of your exterior lamps, your signalling devices, headlamps

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(Continued)

in very encompassing and distinctively clear language stated, "*In any event* switches are not lighting equipment *per se*, for they are not complete devices for furnishing illumination" (at 102). Thus the court's basic holding was that in order to be considered lighting equipment an article must be capable of furnishing actual illumination.

In actuality, the *Bosch* Court recognized that the Summaries of Trade and Tariff Information were prepared after the effective date of the applicable legislation and, in fact, was cited by the *Bosch* Court as a confirmation of the court's construction of the tariff schedule provision. The court stated, "though the material prepared in this summary was collated in July of 1968, and published in 1969, it appears to reflect the understanding of Congress in adding item 683.65 to the TSUS * * *" (at 101). Such application of the summaries is entirely proper. *Poland Brothers, Inc.* v. *United States*, 64 Cust. Ct. 248, C.D. 3986 (1970); *American Bristle & Hair Drawing Co., et al.* v. *United States*, 59 CCPA 104, C.A.D. 1048, 458 F. 2d 524 (1972).

While the *Bosch* court's reliance on the Brussels Nomenclature has been previously held improper, *Astra Trading Corp.* v. *United States*, 65 Cust. Ct. 6, C.D. 4044 (1970), it is not sufficient to overturn the basic principle of law regarding lighting equipment in view of the evidence and other proper reliances by that court. The reliance may also be viewed as confirmatory in nature.

[2] In *Warshawsky & Company* v. *United States*, 70 Cust. Ct. 75, C.D. 4410, 360 F. Supp. 436 (1973), this Court was confronted with the classification of grill mounted fog and driving lights. In upholding plaintiff's claimed classification under TSUS item 683.65, the court, citing *Gallagher & Ascher Company* v. *United States*, 52 CCPA 11, C.A.D. 849 (1964), found that the imported merchandise was considered parts of motor vehicles and not merely accessories thereof in that they became integral components of the motor vehicle and lend to its safe operation. The fog lights and driving lights in that case did in fact provide actual illumination as an assembled unit, unlike the merchandise in the present case.

> *used for illumination*, your front two corners used for directional signals, your rear two corners would be used for your brake, and your *running lighting assembly*. [Emphasis supplied.]

Plaintiff's witness Robert E. Valk when asked the following questions, responded as follows (R. 127):

> Q. What constitutes the lighting equipment of a motor vehicle? A. The lighting equipment of a motor vehicle is a *visible light which provides a function for illuminating or signalling.*
> Q. Could you list the components of a motor vehicle making up the lighting equipment of such vehicle? A. Well, the components of the lighting equipment, of course, include the lens, the housing for the lights, the light means, which is the bulb, it includes the socket that the bulb goes into, it includes the wiring to that socket, and includes the sourcing of the power to the wiring, and through the controls to the socket, to the light. [Emphasis supplied.]

Likewise, plaintiff's witness Robert W. Costin when asked the following question, responded as follows (R. 159):

> Q. What do you understand lighting equipment of a motor vehicle to consist of? A. Lighting equipment of a motor vehicle is the system for any components within the system that *provide illumination* either within or exterior to the motor vehicle. [Emphasis supplied.]

Finally, plaintiff's witness Karl Santii in reply to a similar question stated (R. 38):

> * * * Everything included in the entire system required to properly *light* the vehicle; which would be the wiring harnesses, the connectors, sockets, bulbs, lamp housings, the lenses—everything involved in providing the lighting functions that are required. [Emphasis supplied.]

Defendant's witness John R. Dawson stated that a socket is *part* of the overall lighting equipment of a motor vehicle (R. 229) which was concurred in by defendant's witness Robert C. Brownlee who called the socket a *component* of the lighting system (R. 269).

It is quite evident from the foregoing testimony that the expert witnesses deem the socket as a *part* of the lighting system of a motor vehicle but not lighting equipment *per se* because the sockets do not have the capability of actual illumination.

Plaintiff argues, alternatively, that the sockets are electrical visual signalling apparatus and thereby classifiable under TSUS item 685.70.

It is axiomatic that a statute must be construed to carry out legislative intent. To determine that intent, one must first look to the statutory language itself. *United States* v. *Siemens America, Inc., et al.*, 68 CCPA —, C.A.D. 1266, 653 F. 2d 471 (1981); *Intercontinental Fibers, Inc.* v. *United States*, 64 CCPA 31, C.A.D. 1179, 545 F. 2d 744 (1976).

In examining item 685.70, the court initially notes that the statute is meant to encompass imported items that actually (physically) convey a visual or a sound signal from someone or something to someone or something. All the exemplars enumerated in the statute, bells, sirens, indicator panels, burglar and fire alarms, have the capability of producing the *actual* sound or signal. As such, these exemplars represent a complex or compound unit with the end capability result of actually conveying a sound or visual signal.

The socket is apparatus.[3] It is composed of certain parts or devices which, when assembled, are designed to hold a bulb and provide a conduit for a power source supply thereto.[4] However, the socket is not visual signalling apparatus. Standing alone, the socket is incapable of providing an end result of actual illumination or sound necessary to initiate the signal. Once again, it is, at best, a part of the visual signalling apparatus.

The court has construed the term *apparatus* on frequent occasions. *United States* v. *Wyman & Co.*, 2 Ct. Cust. Appls. 440, T.D. 32200 (1912); *J. E. Bernard & Co., Inc.* v. *United States*, 62 Cust. Ct. 537, C.D. 3882 (1969), aff'd 58 CCPA 91, C.A.D. 1009, 436 F. 2d 506 (1971). Generally, the court has consulted standard lexicons to arrive at a definition for *apparatus*. Basically, these lexicons are in agreement that the term *apparatus* is collective in the sense that it is intended to encompass a group of devices or a collection or set of materials, instruments or appliances to be used for a particular purpose or a given end.[5]

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[3] Indeed, in TSUS item 685.90 thel amp socket while specifically mentioned by its *eo nomine* designation as a lamp socket is further alluded to as electrical apparatus. Specifically, the statutory language states:

> Electrical switches * * * lamp sockets * * * and *other* electrical apparatus * * * [Emphasis added.]

Had Congress contemplated that lamp sockets or other mentioned exemplars were not apparatus it would have omitted the word "other" which, in context here, includes all of the aforementioned exemplars as examples of electrical apparatus.

Apparatus can be equipment.

The *I.E.E.E. Dictionary of Electrical and Electronic Terms* (2d ed. 1977) defines equipment:

> Equipment (electrical engineering):
>
> A general term including materials, fittings, devices, appliances, fixtures, *apparatus*, machines, etc., used as part of, or in connection with, an electrical installation. [Emphasis added.]

[4] The socket is an assembled end product consisting of a plastic body, a rubber cushion, bulb holder current carrying parts and springs.

[5] *Webster's Third New International Dictionary* (1963 ed.) defines the term "apparatus" as follows (at 102):

> apparatus * * *
> 2 a: a collection or set of materials, instruments, appliances, or machinery designed for a particular use * * *
> b: any compound instrument or appliance designed for a specific mechanical or chemical action or operation * * *

The word "apparatus" is defined by the *Century Dictionary* as:

> * * * an equipment of things provided and adapted as a means to some end; especially a collection, combination, or set of machinery, tools, instruments, utensils, appliances, or materials, intended, adapted, and necessary for the accomplishment of some purpose, such as mechanical work, experimenting, etc.; as, chemical philosophical, or surgical apparatus.

Funk & Wagnalls Standard Dictionary (International Edition, 1963) defines *apparatus*:

> A complex device or machine for a particular purpose.

The sockets in issue are completely in accord with the definition for apparatus. They are a group of devices or a collection or set of materials (footnote 5, supra). They have a purpose or a given end—to hold a bulb and provide a means of supplying it with electrical current. Their particular or immediate purpose is not to give an actual visual signal but merely to hold a bulb and provide a means of electrical conduit. Thus, they are not *visual signalling* apparatus but merely electrical apparatus.

The trial testimony on this point is not decisive of the issue. When asked whether the sockets in issue are visual signalling apparatus, plaintiff's witness Santii responded "yes" reasoning that they were a necessary part of the system for signalling function on a motor vehicle (R. 39). Plaintiff's witness Polkinghorn responded likewise (R. 97).

Plaintiff's witness Valk, in response to the aforementioned question stated (R. 133):

> That term means to me those *lights* which either by their *action* or *illumination signal*, someone outside of the vehicle itself in another vehicle or afoot of the vehicle or its whereabouts.[6]

Plaintiff's witness Costin defined visual signalling apparatus broadly to include the battery and fuses (R. 162) although previously he alluded to the "lamp" functions of the sockets (R. 160).

Defendant's witness Brownlee on cross-examination testified that sockets are apparatus (R. 272) but they do not make the signalling system (R. 272).

Defendant's witness Dawson on cross-examination stated (R. 233) in response to whether sockets are visual signalling apparatus:

> "They are certainly *part* of visual signalling systems, yes."

His testimony, as a whole, contemplated lighting equipment and apparatus to be the combination of devices and electrical apparatus which when assembled could *actually* shed light.

In review, the term apparatus is a broad and all-encompassing term whose outer boundaries are defined and perceived by professional engineers in various perspectives. Sockets are encompassed by the term apparatus. However, their end purpose is to hold a bulb and provide a circuit for carrying the power supply to the bulb. Sockets have no independent means of illuminating but they are a *part* of the system composed of devices, apparatus and equipment which, when assembled, constitute visual signalling apparatus.

The court holds that the sockets in issue were properly classified under TSUS item 685.90 and the court further finds that the sockets

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[6] Interestingly, when witness Valk was asked on direct examination whether the wiring harnesses were visual signalling apparatus he answered: "They are *part* of the visual signalling apparatus." (R. 133.) [Emphasis added.]

in issue are *parts* of electrical lighting equipment designed for motor vehicles (TSUS item 683.65) and parts of visual signalling apparatus (TSUS item 685.70).

At this juncture the court must determine whether item 685.90 is a more specific classification provision than item 683.65 or item 685.70.

TSUS item 685.90 is a bifurcated classification statute. Specifically, it lists certain *eo nomine* items (switches, lamp sockets, etc.) and follows with a basket provision for electrical apparatus. The lamp sockets are specifically mentioned by name, an *eo nomine* designation, in item 685.90. Obviously, they are part of the *eo nomine* designation under item 685.90 and not part of the "basket type" designation under item 685.90. Since this Court has held that the sockets are also classifiable as part of electric lighting equipment designed for motor vehicles under item 683.65 and/or as parts of visual signalling apparatus under item 685.70, the basic issue as to relative specificity is whether an *eo nomine* provision more specifically describes merchandise that a *parts* provision.

General Interpretative Rule 10(ij) is controlling of this issue. General Interpretative Rule 10(ij) provides:

> (ij) a provision for "parts" of an article covers a product solely or chiefly used as a part of such article but does not prevail over a specific provision for such part.

Clearly, item 685.90 is a specific provision for lamp sockets and, therefore, prevails over the "parts" provisions found in items 683.65 and 685.70. *Robert Bosch Corp.* v. *United States*, *supra*; *J. E. Bernard & Co., Inc.* v. *United States*, *supra*.

Accordingly, the court holds that Customs' classification of the electric lamp sockets in issue under item 685.90 is correct and the denial of plaintiff's protest by the District Director is affirmed.

Harnesses

In classifying the wire harnesses in issue pursuant to TSUS item 688.12, Customs officials determined the harnesses were wiring sets designed for use in motor vehicles. Neither party has found a "per se" lexicographic definition of the term "wiring sets". In its independent research the court likewise has been unable to locate a precise definition of that term. Further, the testimony of the eight expert witnesses indicates their perplexity with this term.

Of the three witnesses who testified for defendant, witness Dawson (R. 249) and witness Mueller (R. 283) stated that they did not have a definition for the term "wiring set". Witness Brownlee did not testify on the harness issue.

Of the five witnesses who testified for plaintiff, four stated that the

harnesses in issue were not considered wiring sets. However, these four witnesses did not define the term "wiring set". Witness Santii merely stated, "I would not refer to it as a wiring set" (R. 67), but gave no reason for his answer. He did admit that he would call it a set of wires. Witness Polkinghorn stated that it would not be proper to call the harness a wiring set because: "It's just not terminology that I have ever heard used in the industry of something of this sort." (R. 98.) Witness Valk did not address the term "wiring set" during his testimony. Witness Costin stated that wiring sets in the automotive industry are ignition wiring sets which are basically high voltage wires and that it would be improper to call the harnesses wiring sets (R. 162). Witness Costin's testimony does little to explain why Congress used both the term "ignition wiring sets" and "wiring sets" in the statute.

The only testimony that sheds even a glimpse of enlightment as to what a "wiring set" actually is, comes from the testimony of witness Witek. At the outset of his testimony the witness stated that harnesses could be called a loom or an assembly. (R. 186.) Later, the witness testified that a wiring assembly could not be designated an ignition wiring set nor was the ignition wiring part of the same circuitry as the wiring assembly (R. 193). This response was immediately followed by this question and answer:

> Q. Is there a difference between a wiring set and a wiring assembly? A. Yes. The wiring set has a totally different configuration. Also, it is several units of a—several different pieces. And a wiring assembly is something that is all put together in one unit. It can be one wire with connectors and blocks on either end of many, many wires, but fastened all together as an assembly. [R. 193–194.]

From this response it is not entirely clear whether the witness is defining wiring sets in general or whether he is referring to a specific wiring set—namely an ignition wiring set. While the question asked is general in nature "* * * between a wiring set * * *", the response is seemingly specific, "Yes. The wiring set" presumably referring to the ignition wiring set about which the witness was questioned immediately prior to the question.

In any event, the composite testimony of the eight expert witnesses clearly indicates there is no patterned commercial definition of the term "wiring sets". Their testimony is inconclusive as to the meaning of the term. In fact, the testimony points out the clear need for the court to examine and viably define the term in view of its use in the tariff schedules.

It is well-established in customs jurisprudence that the tariff terms are to be construed in accordance with their common and commerical meanings, which are presumed to be the same. *United States* v. *C. J.*

Tower & Sons of Buffalo, N.Y., 48 CCPA 87, C.A.D. 770 (1961); *Merry Mary Fabrics, Inc.* v. *United States*, 1 CIT __, Slip Op. 80–3 (Nov. 18, 1980). To aid their knowledge of the common meaning of a term courts may consult dictionaries, lexicons, scientific authorities and other reliable sources of information. *Trans-Atlantic Company* v. *United States*, 60 CCPA 100, C.A.D. 1088, 471 F. 2d 1397 (1973); *United States* v. *C. J. Tower & Sons of Buffalo, N.Y., supra.*

Since it is unable to find a definition of the compound term "wiring set" the court will examine the individual terms.

The term "wiring" is simply defined in *Webster's Third New International Dictionary of the English Language, Unabridged Edition* (1966 ed.) as:

> * * * 1. the act, practice or instance of providing or using wire; 2. a system of wires: an arrangement of wires used for electric distribution.

An examination of the sample harnesses indicates they are composed of many different insulated wires which are used for electric distribution.

The term "set" as it specifically pertains to electric and electronics parts and equipment is somewhat more complicated and is defined by the *IEEE Standard Dictionary of Electrical and Electronics Terms*, Second Edition (1977), as:

> * * * A unit or units and necessary assemblies, subassemblies, and basic parts connected or associated together to perform an operational function. Typical examples: search radar set, radio transmitting set, sound measuring set; these include such parts, assemblies, and units as cables, microphone, and measuring instruments.

Likewise, *Webster's Third New International Dictionary* (1966 ed.) defines "set" as:

> * * * 45. an apparatus of electrical or electronic components assembled so as to function as a unit (radio set, television set, amplifying set, sending set).

It is apparent from these definitions and related examples that a "set" must be capable of performing a specific function by itself without assistance from an outside source.

Before the court ascertains whether the merchandise in issue is a set it will, for comparison purposes, ascertain the nature of the function of the set intended to be classified under TSUS item 688.12. The reference heading to this TSUS item specifically mentions "insulated * * * electrical conductors, whether or not fitted with connectors" and then specifically includes "ignition wiring sets, Christmas-tree lighting sets with or without their bulbs, and other wiring sets."

The samples of this particular merchandise must be deemed a potent witness. *United States* v. *The Halle Bros. Co.*, 20 CCPA 219,

T.D. 45995 (1932). To arrive at a conclusion that the harnesses do not constitute a wiring set designed for use in motor vehicles would be directly in contrast to the visual samples as well as the weight of the overall evidence. Of the eight expert witnesses only one even attempted to define a "wiring set" and his definition was unpersuasive. The court therefore finds that the harnesses were properly classified under their *eo nomine* designation of wiring sets pursuant to item 688.12.

This court also finds that the harnesses constitute only parts of either electric lighting equipment designed for motor vehicles pursuant to item 683.65 or, only parts of other sound or visual signaling apparatus under item 685.70. This finding is premised upon the same reasoning as the socket classification, *infra*. The harnesses, standing alone, cannot produce *actual* illumination nor can they produce an *actual* sound or visual signal. They are only parts of those respective systems.

The court also finds that item 688.12, being an *eo nomine* type provision, more specifically provides for the merchandise than either item 683.65 or item 685.70 as they relate to parts pursuant to General Headnote 10(ij).

Accordingly, the court holds that Customs' classification of electric lamp sockets pursuant to TSUS item 685.90 and classification of the harnesses as wiring sets pursuant to TSUS item 688.12 is correct and the denial of the protests by the District Director is affirmed.

Decisions of the United States Court of International Trade

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *January 25, 1982.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P82/2	Richardson, J. January 18, 1982	Alltransport, Inc., et al.	78-1-00048, etc.	Item 708.89 22.5%	Item 708.80 15%	Wild Heerbrugg Instruments, Inc. v. U.S. (C.D. 4767, reh. denied C.D. 4781)	New York Micro copy phototube
P82/3	Landis, J. January 18, 1982	Alltransport, Inc.	76-6-01447	Item 727.55 10%	Item 690.40 5.5%	David E. Porter v. U.S. (C.D. 4808, modified C.D. 4857, aff'd C.A.D. 1259)	New Orleans Passenger seats for use in rail cars
P82/4	Watson, J. January 18, 1982	Topp Electronics, Inc.	79-1-00150	Item 685.30 6.5% Appraised on basis of constructed value at arious values specified on entry papers by liquidating officer; value included addition equal to 3% of invoiced unit prices of merchandise	Item 678.50 5% Dutiable on basis of constructed value; said values are various values specified on entry papers by liquidating officer excluding one-half of amount added for assists (3%)	Montgomery Ward & Co. v. U.S. (C.D. 4573	Los Angeles Radio model 8 TR-188

P82/5	Boe, J. January 18, 1982	Stafford Higgins Industries	80-6-01011	Item 382.02 42.5%	Item 382.60 or 382.63 25¢ per lb. + 21% or 37.5¢ per lb. + 21%, respectively, depending on values previously ascertained by customs officials	Agreed statement of facts	New York Women's wearing apparel, not ornamented, of wool
P82/6	Re, C.J. January 19, 1982	Riekes Crisa Corp.	77-12-04944	Item 546.52 50%	Item 548.05 12.5%	Riekes Crisa Corp. v. U.S. (C.D. 4852)	Laredo Candle jars, model No. 1704
P82/7	Watson, J. January 19, 1982	APF Electronics Inc.	72-10-02170	Item 685.30 9.5% or 8%	Item 678.50 6%	Montgomery Ward & Co. v. U.S. (C.D. 4573)	Chicago Combination article which contains a tape player

Decisions of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R82/10	Re, C.J. January 18, 1982	Daisy-Heddon	76-6-01532	Export value	Invoiced unit prices less nondutiable charges and less credits of $58.95 allowed on entry No. 230316; $221.21 on entry No. 103820; $49.78 on entry No. 226201; and $38.55 on entry No. 227892	C.B.S. Imports Corp. v. U.S. (C.D. 4739)	Los Angeles Fishing equipment

R82/11	Ford, J. January 18, 1982	J. E. Bernard & Co., Inc.	75-2-00469	Export value	Invoiced unit prices less nondutiable charges included therein	J. E. Bernard & Co., Inc. v. U.S. (C.D. 4850)	Chicago Parts of aircraft environmental control systems
R82/12	Ford, J. January 18, 1982	J. E. Bernard & Co., Inc.	75-2-00474	Export value	Invoiced unit prices less nondutiable charges included therein	J. E. Bernard & Co., Inc. v. U.S. (C.D. 4850)	Chicago Parts of aircraft environmental control systems
R82/13	Ford, J. January 18, 1982	Mitsubishi International Corporation	77-9-03743, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	New York Footwear
R82/14	Richardson, J. January 18, 1982	Concord Electronics Corp.	71-8-00898	Export value	Invoice unit value exclusive of buying commission and bank interest shown on invoices	Concord Electronics Corp. v. U.S. (C.D. 4837)	New York; Los Angeles Electronic equipment
R82/15	Watson, J. January 18, 1982	Asia Trading Corp.	280979-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars
R82/16	Watson, J. January 18, 1982	Imported Rug Associates, Ltd.	R62/7463, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Rugs

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R82/17	Re, C.J. January 19, 1982	Norton & Ellis, Inc.	R60/17375, etc.	Export value	Net appraised values less 7¼% thereof, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Norfolk Plywood
R82/18	Re, C.J. January 19, 1982	Thomason Plywood Corp.	R60/12510	Export value	Net appraised values less 7¼% thereof, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Los Angeles Plywood
R82/19	Re, C.J. January 19, 1982	Thomason Plywood Corp.	R60/21938	Export value	Net appraised values less 7¼% thereof, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Philadelphia Plywood
R82/20	Re, C.J. January 19, 1982	Thomason Sales Co. et al.	R60/20348, etc.	Export value	Net appraised values less 7¼% thereof, net packed	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	New Orleans Plywood
R82/21	Watson, J. January 19, 1982	Astra Trading Corp.	285512-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars
R82/22	Watson, J. January 19 1982	Compass Instrument & Optical Co., Inc.	282763-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars
R82/23	Watson, J. January 19, 1982	Compass Instrument & Optical Co., Inc.	285003-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars

R82/24	Watson, J. January 19, 1982	Compass Instrument & Optical Co., Inc.	287607-A, etc.	Export value	F.o.b. unit invoice pr ces plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars
R82/25	Watson, J. January 19, 1982	Compass Instrument & Optical Co., Inc.	290999-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars
R82/26	Watson, J. January 19, 1982	Compass Instrument & Optical Co., Inc.	R58/16409, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars and field glasses
R82/27	Watson, J. January 19, 1982	Compass Instrument & Optical Co., Inc.	R58/22472, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars and field glasses
R82/28	Watson, J. January 19, 1982	Compass Instrument & Optical Co., Inc.	R59/6908, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R82/29	Watson, J. January 21, 1982	Astra Trading Corp.	295725-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars
R82/30	Watson, J. January 21, 1982	Compass Instrument & Optical Co., Inc.	270582-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Binoculars and field glasses
R82/31	Watson, J. January 21, 1982	Kanematsu New York, Inc.	R61/3382, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Table damask sets
R82/32	Watson, J. January 21, 1982	Regal Accessories, Inc.	285320-A, etc.	Export value	F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values	Agreed statement of facts	New York Ladies cotton halters, etc.

R82/33	Boe, J. January 21, 1982	Mitsubishi International Corporation	73-3-00670, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	San Diego Footwear
R82/34	Boe, J. January 21, 1982	Mitsubishi International Corporation	74-1-00228, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	Norfolk Footwear
R82/35	Boe, J. January 21, 1982	Mitsubishi International Corporation	74-12-03456, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	Mobile Footwear
R82/36	Boe, J. January 21, 1982	Mitsubishi International Corporation	75-9-02494, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	New York Footwear
R82/37	Boe, J. January 21, 1982	Mitsubishi International Corporation	76-1-00228, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	Los Angeles Footwear
R82/38	Boe, J. January 21, 1982	Mitsubishi International Corporation	76-6-01501, etc.	American selling price	Appraised values less 23%, per pair	Agreed statement of facts	Los Angeles Footwear

Petition for Writ of Certiorari to the U.S. Court of Customs and Patent Appeals Filed in the Supreme Court of the United States

Denied January 11, 1982

CROSS APPEALS 80–33 and 80–35.—United States *v.* Siemens America, Inc., et al.—SURGE VOLTAGE PROTECTORS—ELECTRICAL APPARATUS—ELECTRONIC TUBES—TSUS. C.D. 4856 modified and remanded June 25, 1981 (C.A.D. 1266). (Action dismissed on remand October 7, 1981, CIT Slip Op. 81–91, rehearing motion denied November 25, 1981.) Supreme Court No. 81–994. Petition filed by Siemens America, Inc., et al. on November 25, 1981.

Appeals to U.S. Court of Customs and Patent Appeals

APPEAL 82–1—Ah Ju Steel Co., Ltd., et al *v.* Armco, et al, and The United States—NEGATIVE DETERMINATION OF INJURY—ANTIDUMPING PROCEEDING—STEEL WIRE NAILS—ANTIDUMPIMG STATUTE—DUMPED MERCHANDISE—TSUS—Appeal from Decision and Judgment in Slip Op 81–69

This case is the result of an antidumping proceeding initiated by the Department of Treasury against the importation of certain steel wire nails from the Republic of Korea pursuant to the Department of Treasury's authority under the "trigger price mechanism" of the then antidumping statute. The Department of Treasury advised the International Trade Commission (ITC) that it had substantial doubt that an industry in the United States was being or is likely to be injured because of the importation of allegedly dumped merchandise. In transmitting this matter to the ITC, the Department of Treasury stated: "Some of the information involved in this case is regarded by treasury to be of a confidential nature. It is therefore requested that the Commission consider all information provided for its investigation to be for the official use of the Commission only, not to be disclosed to others without prior clearance from the Treasury Department."

When the ITC commenced its investigation to determine if there was a "reasonable indication" that an industry in the United States was being or is likely to be injured because of the importation of the steel wire nails, it held a public hearing. At the public hearing, N. David Palmeter of the firm of Daniels, Houlihan and Palmeter appeared and testified on behalf of appellant-intervenors. Martin J. Lewin also of the firm, supra, was employed by the ITC as a staff legal assistant. Later he became an Attorney Advisor to the Commissioner and continued in such employment until he joined the law firm, supra.

At the conclusion of the public hearing, and as a result thereof, the ITC unanimously determined that there was a "reasonable indication" of injury or likelihood of injury to a domestic industry by reason of the importation of certain wire nails from the Republic of Korea. The Department of Commerce determined that certain

wire nails from the Republic of Korea were being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). However, in a subsequent 3 to 2 decision, the ITC made a Final Determination that there was neither material injury nor threat thereof to the American industry resulting from the importation of nails from the Republic of Korea. Plaintiff-appellees appealed the Final Determination of the ITC to the United States Court of International Trade for review.

Martin J. Lewin on behalf of the law firm of Daniels, Houlihan and Palmeter, counsel to appellant-intervenors signed and filed a motion with the United States Court of International Trade for access to confidential documents in the investigation which led to the Final Determination under review by the court and under protective order. The signing and filing of the motion by Martin J. Lewin, and because of his prior employment as Attorney Advisor by the Commissioner of the ITC, where he had access to confidential information in the preliminary investigation, caused plaintiff-appellees to move for Martin J. Lewin's disqualification. Plaintiff-appellees claim that Martin J. Lewin's representation is in direct controvention of the American Bar Association's Code of Professional Responsibility, Canon 9, and Disciplinary Rules 9–101(B). Plaintiff-appellees also moved for the disqualification of the law firm of Daniels, Houlihan & Palmeter, which through N. David Palmeter, represented appellant-intervenors in the preliminary investigation which led to the Final Determination by the ITC. The American Bar Association's Disciplinary Rule 5–105(D) was cited as applicable in this instance.

After considering the evidence and applicable authorities, the United States Court of International Trade held that Martin J. Lewin and the law firm of Daniels, Houlihan & Palmeter, its members and associates are disqualified from appearing in this action on behalf of appellant-intervenors.

APPEAL 82–3—General Electric Company *v.* The United States—ELECTRONIC PACKS— AMPLIFIER PACKS—RADIO RECEIVERS—PARTS OF RADIO RECEIVERS—TSUS—Appeal from Decision and Judgment in Slip Op 81–78

The merhcandise in this case invoiced as "electronic packs" EP–14, EP–20, and PK–11–A, and "amplifier packs" TINIB, was imported from Shannon, Ireland and entered at the port of Chicago, Illinois on May 8, 1973. The customs officials assessed duty on the "electronic packs" (chassis) under the provision in Item 685.23, TSUS, modified by T.D. 68–9, for "solid-state (tubeless) radio receivers" at the rate of 10.4 percentum ad valorem. Also, the customs officials assessed duty

on the "amplifying packs" at 7.5 percentum ad valorem under the provision in Item 684–70, TSUS, modified by T.D. 68–9, for "audio frequency electric amplifiers."

Plaintiff-appellant claims that the chassis are merely parts of radio receivers, and are dutiable under Item 685.25, TSUS, modified by T.D. 68–9, as "other" (than solid-state (tubeless) radio receivers), at a rate of 6 percentum ad valorem. Alternatively, plaintiff-appellant claims that the PK–11–A is dutiable at 7.5 percentum ad valorem under the residual provision "other" in Item T.D. 68–9, and further that the EP–14 and EP–20 articles should have been assessed under Item 688.40, TSUS, modified by T.D. 68–9 as "electrical articles and electrical parts of articles, not specially provided for" at the rate of 5 percentum ad valorem, or under Item 678.50, TSUS, modified by T.D. 6809, as "machines not specially provided for, and parts thereof," at the rate of 5 percentum ad valorem. Plaintiff-appellant also claims that the "amplifier packs" are properly dutiable at 5.5 percentum ad valorem under Item 685.32, TSUS, modified by T.D. 68–9, as parts of phonographs.

Defendant-appellee concedes that if the chassis are not unfinished radio receivers, they are parts of radio receivers and are properly classifiable under plaintiff-appellant's primary claim, viz, Item 685.25.

After considering the testimony of the witnesses, and the exhibits submitted at the trail, the United States Court of International Trade held for defendant-appellee.

APPEAL 82–4—Ah Ju Steel Co., Ltd., et al., The United States *v.* Armco Inc., and CF & I Steel Corp.—NEGATIVE DETERMINATION OF INJURY—ANTIDUMPING PROCEEDING—STEEL WIRE NAILS—ANTIDUMPING STATUTE—DUMPED MERCHANDISE—TSUS—Appeal from Decision and Judgment in Slip Op 81–69

This case is the result of an antidumping proceeding initiated by the Department of Treasury against the importation of certain steel wire nails from the Republic of Korea pursuant to the Department of Treasury's authority under the "trigger price mechanism" of the then antidumping statute. The Department of Treasury advised the International Trade Commission (ITC) that it had substantial doubt that an industry in the United States was being or is likely to be injured because of the importation of allegedly dumped merchandise. In transmitting this matter to the ITC, the Department of Treasury stated: "Some of the information involved in this case is regarded by treasury to be of a confidential nature. It is therefore requested that the Commission consider all information provided for its investigation to be for the official use of the Commission only, not to be disclosed to others without prior clearance from the Treasury Department."

When the ITC commenced its investigation to determine if there was a "reasonable indication" that an industry in the United States was being or is likely to be injured because of the importation of the steel wire nails, it held a public hearing. At the public hearing, N. David Palmeter of the firm of Daniels, Houlihan and Palmeter appeared and testified on behalf of appellant-intervenors. Martin J. Lewin also of the firm, supra, was employed by the ITC as a staff legal assistant. Later he became an Attorney Advisor to the Commissioner and continued in such employment until he joined the law firm, supra.

At the conclusion of the public hearing, and as a result thereof, the ITC unanimously determined that there was a "reasonable indication" of injury or likelihood of injury to a domestic industry by reason of the importation of certain wire nails from the Republic of Korea. The Department of Commerce determined that certain wire nails from the Republic of Korea were being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). However, in a subsequent 3 to 2 decision, the ITC made a Final Determination that there was neither material injury nor threat thereof to the American industry resulting from the importation of nails from the Republic of Korea. Plaintiff-appellees appealed the Final Determination of the ITC to the United States Court of International Trade for review.

Martin J. Lewin on behalf of the law firm of Daniels, Houlihan and Palmeter, counsel to appellant-intervenors signed and filed a motion with the United States Court of International Trade for access to confidential documents in the investigation which led to the Final Determination under review by the court and under protective order. The signing and filing of the motion by Martin J. Lewin, and because of his prior employment as Attorney Advisor by the Commissioner of the ITC, where he had access to confidential information in the preliminary investigation, caused plaintiff-appellees to move for Martin J. Lewin's disqualification. Plaintiff-appellees claim that Martin J. Lewin's representation is in direct contravention of the American Bar Association's Code of Professional Responsibility, Canon 9, and Disciplinary Rules 9–101(B). Plaintiff-appellees also moved for the disqualification of the law firm of Daniels, Houlihan & Palmeter, which through N. David Palmeter, represented appellant-intervenors in the preliminary investigation which led to the Final Determination by the ITC. The American Bar Association's Disciplinary Rule 5–105(D) was cited as applicable in this instance.

After considering the evidence and applicable authorities, the United States Court of International Trade held that Martin J. Lewin and the law firm of Daniels, Houlihan & Palmeter, its members

and associates are disqualified from appearing in this action on behalf of appellant-intervenors.

APPEAL 82–6—The United States *v.* Kyocers International, Inc.—ELECTRICAL EQUIPMENT—CERAMIC ARTICLES—MULTILAYER ELECTRONIC PARTS—OTHER ELECTRICAL APPARATUS—TSUS—Appeal from Decision and Judgment in Slip Op 81–79

The merchandise in this case consists of certain ceramic articles used in integrated circuit devices imported from Japan and entered into the United States at the Port of Los Angeles, California, in 1976. The merchandise is described on the invoices as "MEP'S" ("multilayer electronic parts"), with or without other descriptive information. After further processing in the United States, the imports are used to "package" semiconductors. At the time of entry, the District Director of Customs classified the merchandise as "other electrical apparatus . . . for the protection of electrical circuits, or for making connections to or in electrical circuits," under Item 685.90, TSUS, and assessed duty at the rate of 8.5 per centum ad valorem.

Plaintiff-appellee claims that the imported articles comprise parts of integrated circuits, and are properly dutiable under Item 687.60, TSUS, modified by T.D. 68–9 as parts of "transistors and other related electronic crystal components" at the rate of 6.0 per centum ad valorem.

Defendant-appellant concedes that the imports are parts of integrated circuits and as such are described in Item 687.60, TSUS, as "other related electronic crystal components." In seeking to sustain the classification by the District Director of Customs, however, defendant-appellant points out that General Interpretative Rule 10 (ij) of the General Headnotes and Rules Interpretation, TSUS, provides that a provision for parts of an article does not prevail over a specific provision for such part. Accordingly, defendant-appellant contends that as to the integrated circuit packages in issue, Item 685.90, TSUS, is such a "specific" provision since it provides for "other electrical apparatus . . . for the protection of electrical circuits."

The United States Court of International Trade held that General Interpretative Rule 10 (ij) is not applicable to the instant case; that the record establishes, and defendant-appellant concedes, that the imports are parts of "other related electronic crystal components;" that plaintiff-appellee's claim under Item 687.60, TSUS, is sustained; and that judgment will be entered accordingly.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY, FEBRUARY 4, 1982

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM VON RAAB,
Commissioner of Customs.

In the Matter of	Investigation No.
CERTAIN MODULAR PUSHBUTTON SWITCHES AND COMPONENTS THEREOF	337–TA–96

Notice of Termination of Investigation on the Basis of Settlement Agreements

AGENCY: U.S. International Trade Commission.

ACTION: Termination of the investigation on the basis of settlement agreements.

SUPPLEMENTARY INFORMATION: Complainant ITT Schadow, Inc., moved for termination of this investigation on the basis of 3 settlement agreements. Respondents Toneluck Electronics Industrial Co., Ltd., Electronic Components Groupe, Inc., Hosiden Company, Ltd., Hosiden America Corporation, and Tanaka Electronics Industries Co., Ltd., supported complainant's motion. The Commission investigative attorney opposed the motion.

On September 23, 1981, the Commission published a notice in the Federal Register requesting comment from the public and interested Federal agencies on the settlement agreements (46 F.R. 47031). The only objection to termination on the basis of the settlement agreements came from the justice Department which noted that termination of the investigation would leave important patent issues unresolved.

On January 27, 1982, the Commission terminated this investigation

on the basis of the settlement agreements. The Commission concluded that the presence of the Commission investigative attorney is not required at settlement negotiations and that the public interest would not be adversely affected by the absence of Commission rulings on the patent issues noted by the Justice Department.

Notice of the institution of this investigation was published in the Federal Register of January 28, 1981 (46 F.R. 9262).

Copies of the Commission's Action and Order and all other nonconfidential documents in the record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0074.

By order of the Commission.

Issued: January 28, 1982.

KENNETH R. MASON,
Secretary.

Investigation No. 104–TAA–7

SUGAR FROM THE EUROPEAN COMMUNITIES

AGENCY: United States International Trade Commission.

ACTION: Institution of a countervailing duty investigation.

SUMMARY: On July 31, 1978 in T.D. 78–53, the Department of the Treasury (Treasury) imposed countervailing duties, under section 303 of the Tariff Act of 1930, on sugar imported from the European Communities. Imports of sugar from the European Communities, currently provided for under items 155.20 and 155.30 of the Tariff Schedules of the United States were subject to countervailing duties of 10.84 cents per pound.

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 became effective, and on January 2, 1980, the authority for administering the countervailing duty statute was transferred from Treasury to the Department of Commerce (Commerce). On May 13, 1980, Commerce published a notice in the Federal Register (44 F.R. 31455) of intent to conduct an annual administrative review of all outstanding countervailing duty orders.

On March 28, 1980, the U.S. International Trade Commission received a request from the Delegation of the Commission of the European Communities for an investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with respect to sugar from the European Communities (EC). In accordance with section 104(b)(3) of the act, the Commission notified the Department of Commerce of its receipt of the request for this investigation.

As required by section 751(a)(1) of the Tariff Act of 1930, Commerce has conducted its first annual administrative review of the countervailing duty order on sugar from the European Communities. As a result, on September 23, 1981, Commerce published in the Federal Register (46 F.R. 46984), its final determination that the net subsidy conferred was 3.5 cents per pound. On the basis of that determination, the U.S. International Trade Commission, pursuant to section 104(b)(2) of the Trade Agreements Act, is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of sugar from the European Communities provided for under items 155.20 and 155.30 of the Tariff Schedules of the United States, covered by the countervailing duty order, if the order were to be revoked.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: T. Vernon Greer, Commodity-Industry Analyst, U.S. International Trade Commission, Washington, D.C. 20436 (202–724–0074).

SUPPLEMENTARY INFORMATION:

PUBLIC HEARING

The Commission will hold a public hearing in connection with this investigation on April 5, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m. The hearing on this investigation will be held concurrently with the hearing on molasses from France (Investigation No. 104–TAA–8). Requests to appear at the hearing should be filed with the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. 20436, not later than the close of business (5:15 p.m.) on March 18, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., on March 22, 1982, in room 117 of the U.S. Inter-

national Trade Commission Building. Prehearing statements must be filed with the Commission on or before March 31, 1982.

A staff report containing preliminary findings of fact in this investigation will be available to all interested parties on March 17, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for in rule 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with rule 207.22. Posthearing briefs should be filed with the Commission by no later than the close of business, April 13, 1982.

WRITTEN SUBMISSIONS

Any person may submit to the Commission on or before April 13, 1982, written statements of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted in accordance with section 201.8 of the Commission's Rules of Practice and Procedure, 19 CFR section 201.8 (1980). All written submissions, except confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Rules of Practice and Procedure (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR 207), and part 201, subparts A through E (19 CFR 201).

This notice is published pursuant to section 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 F.R. 76458).

By order of the Commission.

Issued: January 27, 1982.

KENNETH R. MASON,
Secretary.

In the Matter of	
CERTAIN POWER WOODWORKING TOOLS, THEIR PARTS, ACCESSORIES, AND SPECIAL PURPOSE TOOLS	Investigation No. 337–TA–115

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: January 26, 1982.

DONALD K. DUVALL,
Chief Administrative Law Judge.

Investigation No. 731–TA–87 (Preliminary)

CERTAIN SEAMLESS STEEL PIPES AND TUBES FROM JAPAN

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–87 (Preliminary) to determine, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of seamless alloy steel (other than stainless or heat-resisting steel) pressure [1] pipes and tubes, provided for in item 610.5209 of the Tariff Schedules of the United States Annotated (TSUSA), seamless heat-resisting steel pipes and tubes, provided for in TSUSA items 610.5209, 610.5229, or 610.5234, and seamless stainless steel pipes and tubes, provided for in TSUSA items 610.5205, 610.5229, or 610.5230.

EFFECTIVE DATE: January 20, 1982.

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[1] Suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, and feedwater heaters.

FOR FURTHER INFORMATION CONTACT: Ms. Abigail Eltzroth, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0289.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This investigation is being instituted following receipt of a petition filed by counsel for Babcock & Wilcox Co., a U.S. producer of the subject merchandise. The Commission must make its determination in the investigation within 45 days after the date of receipt of a petition, or by March 8, 1982 (19 CFR § 207.17). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207, 44 F.R. 76457), and particularly subpart B thereof.

WRITTEN SUBMISSIONS

Any person may submit to the Commission on or before February 12, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6). All written submissions, except for confidential business data will be available for public inspection.

CONFERENCE

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., e.s.t., on February 10, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Ms. Abigail Eltzroth, telephone 202–523–0289, not later than February 3, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's Rules of

Practice and Procedure, part 207, subparts A and B (19 CFR § 207), and part 201, subparts A through E (19 CFR § 201). Further information concerning the conduct of the conference will be provided by Ms. Eltzroth.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR § 207.12).

By order of the Commission.

Issued: January 25, 1982.

KENNETH R. MASON,
Secretary.

Investigation No. 332–133

TRENDS IN INTERNATIONAL TRADE IN PRINTED CIRCUIT BOARDS AND BASE MATERIAL LAMINATES

Notice of Change of Date of Public Hearing

Notice is hereby given that the time and date for the public hearing to be held in connection with United States International Trade Commission investigation No. 332–133, Trends in International Trade in Printed Circuit Boards and Base Material Laminates, has been changed to 10 a.m., e.d.t., Wednesday, May 5, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. A hearing date of May 12, 1982, had previously been announced in the Commission's notice of institution of the investigation as published in the Federal Register of December 23, 1981 (46 F.R. 62348). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) April 28, 1982.

By order of the Commission.

Issued: January 25, 1982.

KENNETH R. MASON,
Secretary.

Investigation No. 701–TA–145 (Preliminary)

CERTAIN STEEL WIRE NAILS FROM KOREA

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and the scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–145 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea of steel wire nails,[1] provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants, are alleged to be paid.

EFFECTIVE DATE: January 19, 1982.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck, Office of Investigations, U.S. International Trade Commission (202–523–0339).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This investigation is being instituted in response to a petition filed on January 19, 1982, by counsel on behalf of Atlantic Steel Co., Florida Wire and Nail, New York Wire Mills, Virginia Wire and Fabric, Tree Island Steel, Inc., and Armco Inc., U.S. producers of steel wire nails.

The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or, in this case, by March 5, 1982 (19 CFR § 207.17). The investigation will be subject to part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207, 44 F.R. 76457), and particularly subpart B thereof.

WRITTEN SUBMISSIONS

Any person may submit to the Commission on or before February 16, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such a statement must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure [19 CFR 201.6]. All written submissions, except for confidential business data, will be available for public inspection.

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[1] For purposes of this investigation, brads, spikes, staples and tacks are not included.

CONFERENCE

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., e.s.t., on February 12, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for this investigation, Mr. John MacHatton (202–523–0439). It is anticipated that parties in support of the petition for countervailing duties and parties opposed to the petition will each be allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

INSPECTION OF THE PETITION

A copy of the petition filed with the Department of Commerce in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

By order of the Commission.

Issued: January 22, 1982.

KENNETH R. MASON,
Secretary.

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U.S. Customs Service

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